

Salisbury, North Carolina
October 21, 2003

REGULAR MEETING

PRESENT:		Mayor Susan W. Kluttz, Presiding; Mayor Pro Tem, Paul B. Woodson, Jr.; Councilmen William (Bill) Burgin; William (Pete) Kennedy; Robert (Bob) Martin; City Manager, David W. Treme; City Attorney, F. Rivers Lawther, Jr.; and City Clerk, Myra B. Heard.
ABSENT:		NONE

The meeting was called to order by Mayor Kluttz at 4:00 p.m. The invocation was given by Councilman Martin.

PLEDGE OF ALLEGIANCE

Mayor Kluttz led those present in the Pledge of Allegiance to the United States flag.

RECOGNITION OF VISITORS

Mayor Kluttz recognized all visitors present.

ADDITIONS/DELETIONS TO THE AGENDA

Mayor Kluttz noted the following changes to the Agenda:

Addition to City Manager's Comments for the discussion of the Freedman's Cemetery and the Canary Coalition.

RECOGNITION OF COMMUNITY DEVELOPMENT CORPORATION

Mayor Kluttz recognized the Salisbury Community Development Corporation (CDC) for receiving the North Carolina Center for Nonprofits 2003 Nonprofit Sector Stewards award. Ms. Kluttz noted that the award was presented for being a good nonprofit and was one of only three awarded throughout the state.

The Board of Directors for the SCDC are: Dave McCoy, President; Mae Carroll, Vice-President; Burt Brinson, Treasurer; Karen Alexander, Secretary; Rev. Nilous Avery, A.L. Mitchell, Shirley Johnson, Steve Fisher, Nora Faucette, David Treme, and Mayor Kluttz.

Mayor Kluttz also recognized Chanaka Yatawara, Executive Director; Lou Adkins, Community Development Coordinator; and Angela Hedrick, Administrative Assistant. Mayor Kluttz presented a Certificate of Appreciation on behalf on City Council and thanked the staff and board of directors for their work.

Mayor Kluttz stated that she has never known a more enthusiastic board of directors or staff.

Presentation

Mr. Yatawara gave a brief presentation to Council concerning activity of the Community Development Corporation. He reviewed their mission statement which states:

Salisbury Community Development Corporation is a catalyst to improve the quality of life in selected neighborhoods within the greater Salisbury area. Through utilization of innovative and creative methods the CDC seeks to:

- Develop attractive, quality, affordable housing

(c) Final Subdivision Plat S-07-03 - Parkdale Heights, Phase 2

Approve final subdivision plat for S-07-03 Parkdale Heights, Phase 2, 14 lots on American Drive, subject to receipt of appropriate guarantee of construction.

(d) Street Closing - 500 block of Julia Drive and a portion of 1900 block of Shirley Avenue

Receive a petition to close the 500 block of Julia Drive and a portion of the 1900 block of Shirley Avenue and set a public hearing for November 18, 2003.

RESOLUTION PERTAINING TO THE PROPOSED CLOSING OF THE 500 BLOCK OF JULIA DRIVE AND A PORTION OF THE 1900 BLOCK OF SHIRLEY AVENUE

(The above resolution is recorded in full in Resolution Book No.11, under Chapter XII – Miscellaneous, at Page Nos. 64-65, and is known as Resolution No. 2003-48).

Thereupon, Mr. Kennedy made a **motion** to adopt the Consent Agenda. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson, and Ms. Kluttz voted AYE. (5-0)

ZONING TEXT AMENDMENT - CABINET AND WOODWORKING SHOPS

(a) Mr. Harold Poole, Senior Planner, indicated this was a proposed zoning text amendment that began as a zoning map amendment. The request came to the Planning Board to rezone the old Star Laundry property located at 111 West Bank Street from B-5 Central Business to M-1-S Special Light Business, which is an industrial classification. The only use the owner sought to add was cabinet and wood working shop. Mr. Poole noted that the area is zoned B-5 Central Business and Single Family Residential (SFC). The Planning Board committee felt it was not appropriate to have industrial zoning in this area feeling it would constitute “spot” zoning.

Mr. Poole indicated that the Planning Board decided the best approach is the conditional use process, which will go before the Zoning Board of Adjustment (ZBA). He noted that the Zoning Board of Adjustment can approve the request as a conditional use and can also place additional restrictions or conditions on property if it so desires. Mr. Poole stated that the conditions can be preexisting but the Planning Board felt they did not need to give the ZBA pre-existing conditions but should allow the ZBA to determine what conditions should be placed in conjunction with the permit.

Mr. Poole referred to a map of the downtown area pointing out the large area that B-5 zoning encompasses. He noted that there may be additional requests forthcoming for cabinet and woodworking shops, which may need a different set of conditions.

Mr. Poole told Council that the Planning Board looked at both the special use process and the conditional use process and felt the conditional use is best. He noted that a conditional use is not cumulative and will only apply to B-5 and will not carry forward to B-6.

(b) Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, to consider a zoning text amendment to allow the use “cabinet and woodworking shops” as a conditional use in the B-5 Central Business District.

Those speaking in **favor** of the text amendment were:

Mr. Davis Cooke, 210 South Jackson Street, owner of the property in question, told Council that the building was built in 1946 as a laundry service. When the building was constructed it replaced two houses and created an anomaly with an industrial site wedged between downtown retail and residential. He indicated that the building was eventually turned into a textile dye house. He purchased the property in 1995 and the dye house was in operation until 1997. The building has been vacant since that time. Mr. Cooke told Council that he has attempted to make improvements to the building and has waited to find the right tenant in order to find an operation that will be a good neighbor. Mr. Davis indicated it has been difficult to find the right business to fit the building without causing a disruption to the neighbors. He stated that he wanted to find someone who could use the building for what it is without changing it into something it is not. Mr. Davis noted that he fielded inquiries from several people for uses that would fit the current zoning but he did not feel they would be good neighbors.

Mr. Randy Hemann, 327 Mitchell Avenue, told Council that this building was an anomaly in being a building in a B-5 area and it is hard to find a B-5 use that fits the area and is good for the neighborhood. Mr. Hemann commended the Planning Board for taking the initiative to address the request in a different manner than it was presented. He indicated that there are zones in the downtown area that will need to be reviewed in the future. He added that he felt this was a good compromise and a good use for the building. Mr. Hemann stated he felt the new tenant was more of a craftsman and artisan than an industrial cabinet business creating mass production.

Mr. Dowd Temple, 314 West Marsh Street, stated that he is the prospective tenant for the building. Mr. Temple told Council that he is presently located at 322 Depot Street and the building is too small for his business. He indicated that at his current location he did not have an attractive façade and it is hard to draw in customers for his retail trade. Mr. Temple stated that he maintains all work and waste within the building.

Mr. Mark Perry, 131 West Bank Street, told Council that he lives on the property that adjoins the building and noted he was in favor of the proposal. Mr. Perry told Council that he fears the owner will give up trying to rent it and sell it to a church that will tear the building down and use the space for a parking lot. He stated that he has been to Mr. Temple’s current business and is satisfied that his work will be compatible and he will be a

good neighbor. He noted his interest in the conditional use process and what the Zoning Board of Adjustment might set as conditions for the permit.

Mr. Ed Norvell, 128 South Fulton Street reinforced that this was a unanimous decision from the Planning Board and Planning Committee. He stated that the City needs to encourage this type of development in downtown Salisbury and to encourage craftsmen and artists to live and work in the downtown area. He added that this is the type of development that makes downtown exciting and unique and hopes that they will look for more of these types of uses for the B-5 zoning area.

Those speaking in **opposition** to the zoning text amendment were:

Mr. Henry Buck, 210 West Glenview Drive, told Council that he was speaking as a representative of First United Methodist Church and objected to this type of use of the building. He noted that their concern was a safety issue for the children's programs held at the church during the week. Mr. Buck stated they felt the business will increase truck traffic and questioned what types of restrictions will be placed on the hours of operation and noise levels. Mr. Buck also noted that two people spoke in favor of the change and two against it at the Planning Board hearing.

Since no one else was present to speak **for** or **against** the above proposal, Mayor Kluttz closed the public hearing.

Mayor Pro Tem Woodson indicated that when the building was used as a dye plant he was surprised that the use was allowed and felt the proposed use is mild compared to the dye operation. He added that when he was in the building several years ago the operation was very loud and quite a mess. He stated he did not see how the proposed use could hurt the church.

Councilman Martin stated he felt it was a good use for the building adding that it will preserve the building and was a unanimous decision by the Planning Board. He commented that he felt it was a good compromise and will be a good business.

Mr. Woodson asked Mr. Perry if he lived adjacent to the property when it was used for a dye house. Mr. Perry replied that he did live there during that time and it was very noisy.

Councilman Kennedy stated he supported the change.

Councilman Burgin stated that he supports the addition of this particular use type in B-5 zoning. He noted that there are other properties in downtown where wood working shops and craftsmen would be a nice addition. Mr. Burgin stated that the Planning Board did an exceptional job in recognizing the best way to handle the request. He added that it demonstrates the quality of planning in the City. Mr. Burgin commented that he understood the church had reasonable concerns but felt the Planning Board made provisions by making it a special use permit to allow opportunity for restrictions. Mr. Burgin encouraged the church to attend the ZBA meeting to add their input to the restrictions.

Mayor Kluttz stated she felt this was a good example of why zoning cases are among the most difficult things they have to do as a Council. She indicated that everything is so close together and everyone has to live side by side. Mayor Kluttz stated she understood the concerns of the church but felt fortunate that the owner waited until he could find the right fit and was concerned about the neighbors in selecting a tenant. She stated she felt the City was very fortunate to have an artist such as Dowd Temple to add to the quality of life for Salisbury. Mayor Kluttz stated that the Planning Board was very wise to find a compromise that will protect the church and neighborhood.

(c) Thereupon, Mr. Burgin made a **motion** to approve the zoning change for Z-13S-03 as presented by the Planning Board. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING APPENDIX B, ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF SALISBURY, NORTH CAROLINA, BY ADDING A CONDITIONAL USE IN SECTION 8.39 CENTRAL BUSINESS DISTRICT (B-5).

(The above Ordinance is recorded in full in Ordinance Book No. 19, under Chapter XI – Zoning and Planning at Page No. 66, and is known as Ordinance No. 2003-2003-69.)

REQUEST TO ALLOW AN ENCROACHMENT ON A PUBLIC SIDEWALK LOCATED 112 AND 114 SOUTH MAIN STREET

Ms. Wendy Brindle, Traffic Engineer, spoke to Council concerning a request from Mr. Gray Stout, Architect, for an encroachment onto the sidewalk for a façade renovation at Innes Street Drug located at 112 and 114 South Main Street. Ms. Brindle noted that Section 22-17 of the City Code allows this if certain conditions are met.

The first condition is that the building must be at least fifteen (15) years old and located in a historic district. Mr. Brindle stated that the Innes Street Drug building was built in 1964 and is in the National Register Historic District as well as a local historic district.

The second condition is that the right-of-way of the street adjacent to the building has to be at least forty-five (45) feet. Ms. Brindle indicated that Main Street has approximately one hundred (100) feet right-of-way.

The third condition is that the encroachment shall not extend more than four (4) feet over the sidewalk. The encroachment request is for seven inches over the sidewalk.

Ms. Brindle told Council that Wagoner Construction, the project contractor, has requested temporary closure of the sidewalk during construction. She indicated that they propose to protect pedestrians with four (4) foot high plywood fencing. The project will be performed in phases with the first phase being at 114 South Main then moving to 112 South Main. Ms. Brindle noted that the contractor hopes to only impact four (4)

parking spaces during each phase.

Ms. Brindle stated that staff has reviewed the request and finds that the conditions for the encroachment have been met and recommends that Council approve the request. She added that staff felt Wagoner Construction is proposing a sufficient walkway for pedestrians and recommended approval of that request as well.

Mayor Kluttz commented that this has been done for other downtown buildings. Ms. Brindle agreed stating it was allowed for the Oestricher Building, Salisbury Post and F&M Financial Center.

Mayor Kluttz stated she is very excited about the change, adding that the current façade is in place because of a fire in the 1960's when the original façade was never replaced. Mayor Kluttz noted that the plan is to recreate the original façade.

Thereupon, Mr. Woodson made a **motion** to approve the encroachment on the public sidewalk at 112 and 114 South Main Street in accordance with Section 22.17. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson, and Ms. Kluttz voted AYE. (5-0)

MEDICAL REIMBURSEMENT PLAN

Ms. Karen Ingram, Human Resources Analyst, asked Council to approve an amendment to the Section 125 Medical Reimbursement Plan to allow reimbursement for non-prescription drugs. Ms. Ingram told Council that the Federal Government approved the action on September 3, 2003 but the City's individual plan document excludes non-prescription drugs.

Thereupon, Mr. Burgin made a **motion** to modify the Medical Reimbursement Plan to include non-prescription drugs as allowed by the Federal Government. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson, and Ms. Kluttz voted AYE. (5-0)

RESOLUTION AMENDING THE CITY OF SALISBURY MEDICAL REIMBURSEMENT PLAN

(The above resolution is recorded in full in Resolution Book No. 11, under Chapter XII– Miscellaneous, at Page Nos. 66-67, and is known as Resolution No. 2003-49.)

TRANSIT DIVISION - ADA COMPLIANT BUSES

Mr. Dewey Peck, Purchasing Manager, noted that in October 2002 Council joined a consortium for the purchase of buses through a group purchase. The City of Durham has acted as the lead agency and prepared specifications with input from numerous transit authorities across the state. They have awarded the contract for the purchase of heavy-duty low entry buses to Orion Bus Manufacturing Company.

Mr. Peck told Council that federal funding is available for 90% of the purchase price with the City being responsible for the remaining 10% or \$116,299.00. He added that the funds are in the transit capital fund budget for this year. Mr. Peck indicated that four (4) buses will be replaced. Three (3) of the buses are approximately fifteen (15) years old and one (1) is twenty (20) years old.

Councilman Woodson asked Mr. Peck's clarification on the 10% purchase price. City Manager David Treme noted that \$116,299.00 is 10% of the total cost for the four (4) buses, with the total being \$1,162,990.00.

Mr. Woodson asked about the longevity of the buses. Mr. Peck replied that the average bus lasts between fifteen (15) and twenty (20) years.

Mr. Burgin asked if the old buses will be auctioned. Mr. Peck answered that they will be auctioned.

Thereupon, Mr. Burgin made a **motion** to authorize the purchase of four (4) buses for the total expense to the City of \$116,299.00. Mr. Kennedy seconded the motion. Mr. Kennedy stated that in these times many people are losing their automobiles and the City is providing transportation at a small cost to the City. Messrs. Burgin, Kennedy, Martin, Woodson, and Ms. Kluttz voted AYE. (5-0)

COMMENTS FROM THE CITY MANAGER

(a) Planning Board Recommendations

Council received the Planning Board recommendations and comments from their October 14, 2003 meeting.

(b) Towne Creek Commons Update

Mr. Dan Mikkelsen, Director of Land Management and Development, provided Council an update on Towne Creek Commons. Mr. Mikkelsen stated that staff has received the final subdivision plat to extend a portion of Cedar Street to create two (2) new lots in Towne Creek Commons. He indicated that Mr. Steve Barker, Developer, has a buyer who would like to close on the lot as soon as possible.

Mr. Mikkelsen recommended that Council grant approval of the final subdivision plat subject to the following five (5) conditions:

1. Proper notations concerning drainage and utility easements shall be affixed to the engineering drawings and the subdivision plat prior to approval
2. Revised drainage design and calculations must conform to City standards
3. The sediment basin must be adjusted to avoid encroaching upon the existing sanitary sewer easement
4. Staff must confirm that the design conforms to Duke Power easement restrictions
5. An appropriate guarantee of improvements must be submitted to staff prior to release of the approved final plat.

Mr. Rivers Lawther, City Attorney, stated that he and staff must confirm that the proper street dedication is in place.

Mr. Mikkelson commented that if Council grants the approval subject to the five (5) conditions, as soon as the conditions are met staff can release the final subdivision plat causing the developer to wait only a few days rather than a few weeks.

Thereupon, Mr. Kennedy made a **motion** to approve the plat subject to the owner meeting the five (5) conditions required by staff. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson, and Ms. Klutz voted AYE. (5-0)

(c) Rowan County Fair Study Committee

City Manager Treme told Council that Rowan County has created a Fair Study Committee to review the property where the present fairgrounds are located. They will determine if the fair should be moved and what the best use of the existing buildings and property will be. City Council has been asked to select one person to serve on the Fair Study Committee. City Manager Treme indicated that Mr. Joe Morris, Planning and Community Development Manager, will attend the first meeting until Council makes its selection.

City Manager Treme noted that he felt it will be to the City's benefit to have someone serve on the committee to ensure the fairground plans are complimentary to the City's goal of a downtown convention center.

Mayor Klutz asked Council if anyone would volunteer. Councilman Kennedy indicated he is willing to serve. By consensus Councilman Kennedy will serve on the Fair Study Committee.

(d) Freedman's Cemetery Update

Mr. Joe Morris, Planning and Community Development Manager, told Council that the Oak Grove Freedman's Memorial committee has raised over 90% of the \$215,000 needed for the memorial project. He added that they are in the process of finalizing several grants and selling the extra bricks to be installed in the sidewalk.

Mr. Morris told Council that Mr. Jerome Meadows, artist for the memorial project, has withdrawn. Mr. Morris indicated there were concerns relative to the production of construction drawings, escalations in budgets being submitted from Meadowlark Studios, and the inability to identify a bondable contractor for the project.

Mr. Morris stated that there were over 67 artists who submitted designs to the committee and the committee then narrowed the field to three (3). By the narrowest of margins Mr. Meadows was chosen over Ms. Maggie Smith of Bainbridge Island, Washington. The committee has contacted Ms. Smith to determine her interest in the project and she has indicated a willingness to reengage. Mr. Morris noted that Ms. Smith and her design collaborator, Sam Reynolds, of Reynolds-Jewell Landscape Architects in Raleigh, will be brought back into the project. The committee will then adapt the original design, develop a new budget and put the project out to bid. Mr. Morris indicated he saw no reason the project could not be underway by spring, 2004.

Mr. Morris noted that the Committee is in the process of notifying the major sponsors of the project to make them aware of the change in the design and artist and continue their commitment to move forward.

Councilman Kennedy stated he would rather see a project delayed than get into a project that could not be finished. Mr. Kennedy noted he was happy with this change.

Mr. Morris stated the committee is committed to creating a fitting memorial and anticipate no delay in doing this by moving to a new artist.

(e) Canary Coalition

City Manager Treme informed Council that he has received information from the Canary Coalition. They are urging the Governor, through the Attorney General, to file a petition for review against the Environmental Protection Agency's (EPA) routine maintenance rule change in the new source review provision of the Clean Air Act. The Coalition is urging the entire North Carolina congressional delegation to co-sponsor legislation and Congress to repeal the EPA routine maintenance ruling. Mr. Treme noted that the letter has gone to most of the major cities in North Carolina urging them to pass a resolution in support of the Governor filing the petition.

Mr. Treme indicated that he has attempted to contact Ms. Jessica Marlees, Environmental Attorney, to determine the legality and detail of the issue. He added that Duke Power has indicated it is not in favor of such action and he wanted to present this as information to Council. Mr. Treme stated he would like to investigate the issue further and have time to talk with other cities to see how they will respond. He noted that to date, only Chapel Hill and Sylva have passed resolutions in support of the action.

Mayor Kluttz stated that she has received several e-mails from local environmentalist urging support of the resolution. She added that Council needs to be careful of the type of resolution they support and indicated she would like the City's environmental attorney to review and bring a recommendation back to Council.

Mr. Treme stated that this is a federal policy and ruling and he needs more information before he can advise Council on the best course of action.

Mayor Kluttz indicated she has information from both sides of the issue and she will share with Council if they wish.

Mr. Woodson asked if this issue will be a business versus non-business issue. City Manager Treme stated that large industry might not be in favor of the legislation and others may think this will hurt the health, safety, and welfare of the community. He stated he would like to find the balance of the issue and asked for outside assistance to help evaluate. Mr. Treme suggested checking with the Metropolitan Coalition to see if they have input to offer since they have expanded resources to review the matter.

Councilman Burgin stated that there are pollution issues that may affect the City's federal highway funds. He added that it could affect economic development and make the highway money disappear. Mr. Burgin stated that Rowan County is getting pollution from Mecklenburg County and it is beginning to hurt our ability to get federal highway dollars.

Mr. Treme stated he had attended a meeting concerning non-attainment and paperwork will have to be filed regarding planning for the growth of the area. Rowan County may be reevaluated based on vehicle pollution and trip miles. If Salisbury-Rowan is not compliant on these issues, federal aid to highway projects will be cut off, which could cripple the area. Mr. Treme stated that the more he looked into the issue the more compound it became.

Mayor Kluttz indicated that the reason the City is working with Sequel and the City of Charlotte is because of the threat of losing federal highway money.

Mr. Burgin stated he felt the only thing worse than losing highway money for business, industry, and jobs is if the City ran out of water and since that is not an issue the highway money is the big issue.

Mr. Burgin indicated that the federal government will look at policies the City institutes to mitigate the pollution issues, such as mass transit, bicycles, and walking in an effort to help reduce the number of traffic miles driven.

Mr. Kennedy stated that Council has gone on record as supporting clean air and the battle has been fought for many years and he would like to study the issue.

Mayor Kluttz asked if Sequel has adopted the resolution or if they have a recommendation. City Manager Treme stated that their effort will be placed on vehicle trips and planning in order to make their determination. He added that by spring 2004 they anticipate knowing what regulations will be placed on the region.

City Manager Treme stated that the City wants business and industry but also clean air. Mr. Treme indicated this is an important issue and he will seek outside help in order to move forward.

MAYOR'S ANNOUNCEMENTS

(a) NAACP Harvest Banquet

Mayor Kluttz announced that the NAACP Harvest Banquet will be held Friday, October 31, 2003, at 6:30 p.m., at the Holiday Inn.

(b) City Council Candidate Forum

Mayor Kluttz announced that the Chamber of Commerce is hosting a City Council Candidate Forum on Thursday, October 23, from 6:30 - 8:30 p.m., in the DelHaize American Board Room of The Gateway Building.

(c) Wal-Mart Donation

Mayor Kluttz announced that Wal-Mart has presented the Salisbury Police Department with a \$1,000.00 gift as part of their Safe Neighborhood Heroes grant program. She noted that Chief Wilhelm has indicated that this money will be used in the Project Safe Salisbury program.

(d) Presentation to Chief Mark Wilhelm

Mayor Kluttz presented Chief Wilhelm with a gift from Council and staff of a photo album of his swearing in ceremony.

COMMENTS FROM MAYOR PRO TEM WOODSON

Mayor Pro Tem Woodson asked Mr. Dan Mikkelsen, Director of Land Management, why the City did not pay for the street lights in Hidden Creek. He indicated he has received several telephone calls from residents in the subdivision. Mr. Mikkelsen stated that Hidden Creek was a private street and the City does not pay for street lighting on private streets. He added that this is why the City no longer allows private streets in new developments.

Mayor Kluttz asked if the City has a responsibility to home buyers when they buy into a development to make them aware that the streets are private. Mr. Mikkelsen stated that every attempt is made to make the buyer aware but many do not realize until it is too late.

Councilman Kennedy stated he has spoken with residents of Westcliffe and Rolling Hills and they would like to know when street lights will be coming for their neighborhoods. Mr. Mikkelsen stated that the City has taken over the existing street lights in those neighborhoods, but because of a computer glitch they received an extra bill. He added that if the areas that have been annexed would like to improve their level of lighting to the City's new standards they will need to petition the City. These petitions are then put into order as funding is available. Mr. Mikkelsen noted that there is no funding available in the current budget for street light improvements but he hopes it will be allocated in next year's budget.

ADJOURNMENT

Motion to adjourn the meeting was made by Mr. Woodson, seconded by Mr. Burgin. All council members agreed unanimously to adjourn. The meeting was adjourned at 5:15 p.m.

Mayor
